

TENNESSEE STATE BOARD OF EQUALIZATION
BEFORE THE ADMINISTRATIVE JUDGE

IN RE: Wilkinsville Self-Storage)	Shelby County
Property ID: M0115 00890)	
)	
Tax Year 2013)	Appeal No. 92132

INITIAL DECISION AND ORDER

Statement of the Case

The Shelby County Board of Equalization ("local board") has valued the subject property for tax purposes as follows:

<u>Land Value</u>	<u>Improvement Value</u>	<u>Total Value</u>	<u>Assessment</u>
\$473,300	\$2,090,100	\$2,563,400	\$1,025,360

On December 30, 2013, the State Board of Equalization ("State Board") received an appeal by Wilkinsville Self-Storage, the owner of the property in question.

The undersigned administrative judge conducted a hearing of this matter on November 19, 2014, in Memphis. The appellant was represented at the hearing by Frank Fitzgerald, the manager of the property. The Shelby County Assessor of Property was represented by her legal advisor, John Zelinka. He was assisted by commercial appraiser Tiffany Marsh.

Findings of Fact and Conclusions of Law

The subject property in this appeal consists of a mini-storage unit situated on a 6052 acre lot and located at 8525 Wilkinsville Road in Millington.

The appellant contended that the property should be valued at \$1,500,000. In support of this, the appellant offered a fee appraisal and the testimony of the manager of the property.

The Assessor contended that the value established by the local board be affirmed. In support of this, the Assessor relied on an analysis prepared by Tiffany Marsh, a commercial appraiser in the Assessor's office.

The basis of valuation set out in Tenn. Code Ann. § 67-5-601(a) is that [t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values. . . .”

As the party seeking to change the current assessment of the subject property, the appellant has the burden of proof in this administrative proceeding. State Board Rule 0600-1-.11(1).

As noted above, the appellant based their contention of value on a fee appraisal performed by Statewide Appraisal Service, Inc. Regrettably, there appear to be two major concerns with the appraisal. First, the appraisal is dated April 2, 2013. However, because January 1, 2013, constitutes the relevant assessment date pursuant to Tenn. Code Ann. § 67-5-504(a), the data would seem to be irrelevant. Indeed, the Assessment Appeals Commission has said: “[e]vents occurring after [the assessment] date are not relevant unless offered for the limited purpose of showing that assumptions reasonably made on or before the assessment date have been borne out by subsequent events.” Acme Boot Company and Ashland City Industrial Corporation (Cheatham County, Tax Year 1989, Final Decision and Order) p. 3.

More importantly, although the Assessor had questions concerning the appraisal, the appraiser was not present to testify. Historically, the Assessment Appeals Commission has

refused to consider appraisal reports in similar circumstances. See, e.g., TRW Koyo (Monroe Co., Tax Years 1992-1994) wherein the Assessment Appeals Commission ruled in pertinent part as follows:

The taxpayer's representative offered into evidence an appraisal of the subject property prepared by Hop Bailey Co. Because the person who prepared the appraisal was not present to testify and be subject to cross-examination, the appraisal was marked as an exhibit for identification purposes only. . . .

* * *

. . . The commission also finds that because the person who prepared the written appraisal was not present to testify and be subject to cross-examination, the written report cannot be considered for evidentiary purposes. . . .

Final Decision and Order at 2.

Based upon the foregoing, the taxpayer introduced insufficient evidence to establish a prima facie case. It is technically unnecessary to even address the Assessor's proof since the Assessor could have moved for a directed verdict. It should be noted, however, that the Assessor did introduce an analysis with an income and market component, both of which support the value established by the local board. Given the lack of relevant evidence offered by the appellant and the analysis submitted by the Assessor, the administrative judge has no choice but to affirm the decision of the local board.

Order

It is, therefore, ORDERED that the following values be adopted for tax year 2013:

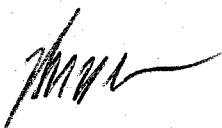
<u>Land Value</u>	<u>Improvement Value</u>	<u>Total Value</u>	<u>Assessment</u>
\$473,300	\$2,090,100	\$2,563,400	\$1,025,360

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review.

The result of this appeal is final only after the time expires for further administrative review, usually seventy-five (75) days after entry of the Initial Decision and Order if no party has appealed.

Entered this 18th day of February 2015.



Brook Thompson, Administrative Judge
Tennessee Department of State
Administrative Procedures Division
William R. Snodgrass, TN Tower
312 Rosa L. Parks Avenue, 8th Floor
Nashville, Tennessee 37243

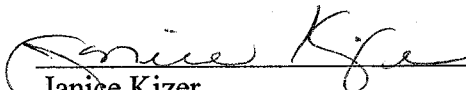
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and exact copy of the foregoing Order has been mailed or otherwise transmitted to:

Frank L. Fitzgerald
Wilkinsville Self-Storage
237 Poplar View Parkway
Collierville, Tennessee 38017

Cheyenne Johnson
Shelby Co. Assessor of Property
1075 Mullins Station Road
Memphis, Tennessee 38134

This the 18th day of February 2015.



Janice Kizer
Department of State
Administrative Procedures Division